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June 20, 2022

Via ECF
Hon. Kenneth M. Karas
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Re: U.S. v. Leibys Mercedes, 17 CR 419 KMK

Your Honor:

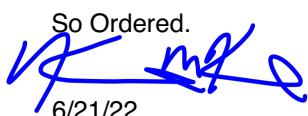
On November 5, 2021, by ECF document 255, the Court appointed me as CJA counsel “to represent Mr. Mercedes in a potential Section 2255 Petition...”. On June 15, 2022, however, Mercedes filed a 2255 petition *pro se* concerning various issues alleging ineffective assistance of counsel in pre-trial proceedings, at trial and on appeal. None of the issues raised in the *pro se* petition specifically address the issue which caused Your Honor to appoint me as counsel. The issue preceding my appointment was: “whether false statements were made by former Yonkers Police Officer Sean Fogarty in the Grand Jury and/or in affidavits by Fogarty submitted in application for warrants to search and seize evidence used against Mercedes at trial.”

As counsel, I have reviewed the record in this case, including discovery produced by the Government in connection with my appointment in this matter. I have not identified any viable, non-frivolous issues to pursue in a 2255 petition in connection with the Fogarty issue, grand jury proceedings, warrant applications or otherwise. Accordingly, I believe it is in Mercedes best interest that I be relieved as his counsel so he may pursue the instant *pro se* 2255 petition alleging ineffective assistance of counsel on various grounds.

Granted.

Respectfully submitted,

So Ordered.



6/21/22



Daniel A. Hochheiser

Cc: all counsel via ECF
Leibys Mercedes by U.S. Mail